No. 80-1550

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

UNITED PARCEL SERVICE, INC.,

Petitioner,

v.

PAUL E. TINSLEY, JR.,

Respondent

MOTION FOR LEAVE TO PROCEED

IN FORMA PAUPERIS

The respondent, Paul E. Tinsley, Jr., asks leave to file the attached Response to Petition For A Writ of Certiorari to the United States Supreme Court without prepayment of costs and to proceed in forma pauperis pursuant to Rule 46. Respondent has not prior to this time in any proceeding in any lower court asked leave to proceed in forma pauperis.

The respondent's affidavit in support of this motion is attached hereto.

Frank E. Wallemann

Frank E. Wallemann
Counsel for the Respondent
8000 Bonhomme, Suite 414
St. Louis, Missouri 63105
(314) 862-4144

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AFFIDAVIT

I, Paul E. Tinsley, Jr., being first duly sworn according to law, depose and say, in support of my motion for leave to proceed without being required to prepay costs or fees: 1. I am the respondent in the above-entitled case. 2. Because of my poverty I am unable to pay the costs of said cause. 3. I am unable to give security for the same. 4. I believe that I am entitled to redress in said case. 5. The nature of said cause is briefly stated as follows:

I filed a petition in the Southern District Court of the Southern District of Illinois under Section 301 of the Labor Management Relations Act, 29 U.S.C. Sec. 185, in which I alleged that United Parcel Service, Inc. violated the collective bargaining agreement be discharging me and that Highway Drivers, Dockmen, Spotters, Rampmen, Packing House and Allied Products Drivers and Helpers, Office Workers, and Miscellaneous Employees Local Union No. 710, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (hereinafter called "the Union") breached its duty of fair representation. The district court dismissed my petition as to each of the above parties. The United States Court of Appeals for the Seventh Circuit sustained the dismissal as to the union and reversed as to United Parcel Service, Inc.. United Parcel Service, Inc., filed a

Petition for a Writ of Certiorari on March 11, 1981. In a letter dated May 5, 1981, Alexander L. Stevas, Clerk of the United States Supreme Court requested my attorney of record to file a response to the Petition for Certiorari. I am not possessed of adequate financial resources to bear the expenses of litigation of the matter before the United States Supreme Court.

Paul E. Tinsley, Jr.

Duly witnessed and sworn to before me,
a Notary Public, this 20th day of May, 1981.

Frank E. Wallemann

Frank E. Wallemann, Notary Public

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CERTIFICATE OF SERVICE

I, Frank E. Wallemann, a member of the Bar of The Supreme Court of the United States, certify that I did personally on this 21 st day of May, 1981, deposit in a United States post office, with first-class postage prepaid, an Affidavit of Respondent, a Motion for Leave to Proceed in Forma Pauperis, and Response to Petition for a Writ of Certiorari, addressed to the following parties:

Bernard G. Segal
Martin Wald
Nicholas N. Price
Schnader, Harrison, Segal & Lewis
1719 Packard Building
Philadelphia, Pennsylvania 19102

Keck, Mahin & Cate
8300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606

Frank E. Wallemann
Frank E. Wallemann

Cert

No. 80-1550

RECEIVED
MAY 26 1981
OFFICE OF THE CLERK
SUPREME COURT, U.S.

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RESPONSE TO

PETITION FOR A WRIT OF CERTIORARI

Inasmuch as the issues raised in this Petition are identical to those raised in Clayton v. ITT Gilfillan, 623 F. 2d 563 (9th Cir., 1980), cert. granted, 49 U.S.L.W. 3332(Nov. 3, 1980) (No. 80-54) and the fact that the lower courts are in irreconcilable conflict on the issues raised herein (as discussed fully in the Petition For a Writ of Certiorari), the Respondent supports the Petition For A Writ Of Certiorari.

Therefore the Petition For A Writ Of Certiorari should be granted.

Respectfully submitted,

Frank E. Wallemann

Frank E. Wallemann
Counsel for the Respondent
8000 Bonhomme, Suite 414
St. Louis, Missouri 63105
(314) 862-4144